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**From:** Fugh, Justina [Fugh.Justina@epa.gov]  
**Sent:** 1/4/2021 4:29:25 PM  
**To:** Mugdan, Walter [Mugdan.Walter@epa.gov]; Schaaf, Eric [Schaaf.Eric@epa.gov]; Gonzalez, EduardoJ [Gonzalez.EduardoJ@epa.gov]  
**Subject:** RE: PDL - Request for Feedback on Post EPA Job Search Efforts  
**Attachments:** OGE Oct 2020 Legal advisory - PGE Guidance Trump Ethics Pledge.pdf; TRUMP PLEDGE RESTRICTIONS.docx

Hi,

Yes, Pete will have to know about the prohibition on lobbying *and any lobbying activities* as set forth in Paragraph 1 of the pledge. Because this is the end of the Trump Administration, we consider that the obligation under paragraph 3 is over (“In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration”). Although the paragraph 1 restriction is just for EPA, it appears to extend to more than direct lobbying. It also prohibits “lobbying activities carried out with respect to” EPA, which includes (a) any oral or written communication to a covered executive branch official of that agency; or (b) efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official of that agency. What will not be helpful to Pete is the fact that federal ethics officials do not provide advice on the LDA. The best I can do is to give you the 2020 OGE guidance and what my staff prepared back in 2018 as our best guess.

The pledge relies partly on the definition of “lobbying activities” in the Lobbying Disclosure Act (LDA). See E.O. 13770, sec. 2(n). The LDA, which is outside the purview of federal ethics officials, defines that term to include both “lobbying contacts” and behind-the-scenes efforts in support of such contacts. See 2 U.S.C. § 1602(7). The LDA’s definition of “lobbying contacts” is limited to certain types of communications but excludes 19 types of communications, see 2 U.S.C. § 1602(8), while the Executive Order 13770 specifically excludes additional types of communications. See E.O. 13770, sec. 2(n).

Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

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**From:** Mugdan, Walter <Mugdan.Walter@epa.gov>  
**Sent:** Monday, January 04, 2021 8:54 AM  
**To:** Fugh, Justina <Fugh.Justina@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Gonzalez, EduardoJ <Gonzalez.EduardoJ@epa.gov>  
**Subject:** RE: PDL - Request for Feedback on Post EPA Job Search Efforts

Thanks. Early this morning Pete shared two additional applications. One of them, for a company named Altice (a tech company), could potentially include lobbying activities on that company’s behalf. The company is not a federally registered lobbyist.

By the way, I take it that this is the pledge to which you refer:

“1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

As I read it, the pledge restricts Pete from lobbying EPA, but not other federal agencies. (However, his other post-employment restrictions would restrict his ability to lobby to another federal agency; but that restriction won't last 5 years.) Am I understanding this correctly?

In the meantime, I will confirm that Pete is recusing himself from any EPA activities relating to these additional entities.

Walter

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**From:** Fugh, Justina <Fugh.Justina@epa.gov>  
**Sent:** Sunday, January 03, 2021 3:36 PM  
**To:** Mugdan, Walter <Mugdan.Walter@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Gonzalez, EduardoJ <Gonzalez.EduardoJ@epa.gov>  
**Subject:** FW: PDL - Request for Feedback on Post EPA Job Search Efforts

Hi there,  
I checked, and [Ex. 6 Personal Privacy (PP)] so Pete will presumably be subject to paragraph 1 of the Trump pledge he signed. The NY Restoration Project is not a federally registered lobbyist.  
Justina

Justina Fugh | Director, Ethics Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

**From:** Pete Lopez [Personal Email [Pete Lopez]/Ex. 6]  
**Sent:** Saturday, January 02, 2021 1:29 PM  
**To:** Mugdan, Walter <Mugdan.Walter@epa.gov>  
**Cc:** Fugh, Justina <Fugh.Justina@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Gonzalez, EduardoJ <Gonzalez.EduardoJ@epa.gov>  
**Subject:** Re: PDL - Request for Feedback on Post EPA Job Search Efforts

Hi My Friends.

Thank you for your continued guidance and support.

Here are two more positions I applied for over the weekend.

Sincerely,  
Pete

On Thu, Dec 31, 2020 at 11:08 AM Mugdan, Walter <Mugdan.Walter@epa.gov> wrote:

Hi Pete,

As mentioned during our phone conversation yesterday, Eric Schaaf, Eduardo Gonzalez and I have prepared a memo (see attached) in response to your December 28 email. Our memo provides some further guidance about restrictions or obligations during two distinct periods of time:

1. the next three weeks, during which you must recuse yourself from particular matters that affect a prospective employer as a specific party; and
2. the subsequent period, after you've left EPA and accepted other employment.

In addition, we are in the process of finalizing a list of matters on which we have engaged with Puerto Rico in the past several years, annotated to identify those few that we think might constitute "particular matters" that might have a "direct and substantial effect" upon PR as a prospective employer. (Fortunately there are relatively few of these – many of the matters on which we've been dealing with PR are of "general applicability.") We expect to be able to share that list with you early next week.

Please let us know if you have additional questions or would like to discuss any of these issues further.

Walter

*Walter Mugdan*

*Deputy Regional Administrator and Deputy Agency Ethics Official*

*U.S. EPA Region 2*

*212-637-4390 (office)*

*646-369-0058 (mobile)*

**From:** Pete Lopez; Personal Privacy [Pete Lopez]/Ex. 6

**Sent:** Monday, December 28, 2020 5:01 PM

**To:** Fugh, Justina <[Fugh.Justina@epa.gov](mailto:Fugh.Justina@epa.gov)>; Schaaf, Eric <[Schaaf.Eric@epa.gov](mailto:Schaaf.Eric@epa.gov)>; Gonzalez, EduardoJ <[Gonzalez.EduardoJ@epa.gov](mailto:Gonzalez.EduardoJ@epa.gov)>; Mugdan, Walter <[Mugdan.Walter@epa.gov](mailto:Mugdan.Walter@epa.gov)>

**Subject:** PDL - Request for Feedback on Post EPA Job Search Efforts

Hi Folks.

As per our recent conversations, I am respectfully sharing potential employment opportunities (where I have submitted applications) for your review and feedback. With your help, I am working to ensure ethics compliance, while also understanding how I may be able to present myself to each prospective employer (i.e. potential employment restrictions).

I have attached job descriptions for three of the four outreach efforts I have made to date. In the fourth case, I submitted a letter of interest to the [Ex. 6 Personal Privacy (PP)] In the transmittal email, I followed guidance from Justina to make it clear I could not discuss any potential employment with the incoming PR administration until after I end my employment with EPA on January 20, 2021.

Lastly, I am actively preparing applications on [usajobs.gov](https://usajobs.gov). Given these are federal government jobs, I was unsure whether you would wish to review these applications. Please let me know how to proceed here as well.

Thanks for your constructive guidance.

Wishing you all the best.

Sincerely,

Pete

[Ex. 6 Personal Privacy (PP)]